

NATURAL RESOURCES CODE
CHAPTER 115. REGULATION OF CERTAIN TRANSPORTERS OF OIL OR PETROLEUM
PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 115.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Commission order" includes a rule or order adopted by the commission under the oil and gas conservation statutes of this state, including this title and Subtitle B, Title 3, Utilities Code.

(3) "Gas" includes natural gas, bradenhead gas, casinghead gas, or gas produced from an oil or gas well.

(4) "Manifest" includes a document issued by a shipper that covers oil or a petroleum product transported by motor vehicle.

(5) "Oil" includes crude petroleum oil:

(A) in its natural state as produced; or

(B) from which only the basic sediment and water have been removed.

(6) "Person" includes an individual, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, or representative.

(7) "Petroleum product" includes:

(A) refined crude oil;

(B) crude tops;

(C) topped crude;

(D) processed crude petroleum;

(E) residue from crude petroleum;

(F) cracking stock;

(G) uncracked fuel oil;

(H) fuel oil;

(I) treated crude oil;

(J) residuum;

(K) gas oil;

(L) casinghead gasoline;

(M) natural gas gasoline;

(N) naphtha;

(O) distillate;

(P) gasoline;

(Q) kerosene;

(R) benzine;

(S) wash oil;

(T) waste oil;

(U) blended gasoline;

(V) lubricating oil;

(W) blends or mixtures of petroleum; or

(X) any other liquid petroleum product or byproduct derived from crude petroleum oil or gas.

(8) "Shipping papers" includes:

(A) a bill of lading that covers oil or a petroleum product transported by railway;

(B) a manifest; or

(C) a document that covers oil or a petroleum product transported by pipeline, boat, or barge.

(9) "Tender" means a permit or certificate of clearance for the transportation of oil or a petroleum product that is approved and issued or registered under the authority of the commission.

(10) "Unlawful gas" includes gas produced or transported in violation of a law of this state or commission order.

(11) "Unlawful petroleum product" includes a petroleum product:

(A) any part of which was processed or derived in whole or in part from:

(i) unlawful oil;

(ii) a product of unlawful oil; or

(iii) unlawful gas; or

(B) transported in violation of a law of this state or commission order.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.002. EXCEPTION. This chapter does not apply to the retail purchase of a petroleum product if that product is:

(1) contained in the ordinary equipment of a motor vehicle; and

(2) used only to operate the motor vehicle in which it is contained.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.003. DEFINITION OF UNLAWFUL OIL; PRESUMPTION. (a) For purposes of this chapter, oil is unlawful if the oil is:

(1) produced in this state from a well in excess of the amount allowed by a commission order or otherwise in violation of a law of this state or commission order; or

(2) transported in violation of a law of this state or commission order.

(b) It is presumed that oil is "unlawful oil" for purposes of this chapter if the oil is retained in storage for more than six years without being used, consumed, or moved into regular commercial channels.

(c) The presumption under Subsection (b) may be rebutted by proof that the oil:

(1) was produced from a well within the production allowable then applying to that well;

(2) was not produced in violation of a law of this state or commission order; and

(3) if transported from the lease from which it was produced, was not transported in violation of a law of this state or commission order.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

SUBCHAPTER B. TENDERS AND MANIFESTS

Sec. 115.011. TENDER REQUIREMENTS. The commission by order may require that a tender be obtained before oil or a petroleum product may be transported or received for transportation by pipeline, railway, boat, or barge.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.012. TENDER; APPLICATION REQUIREMENTS. (a) The commission by order shall prescribe the form of a tender and a tender application.

(b) The form must show:

(1) the name and address of the shipper or other person who tenders oil or a petroleum product for transportation;

(2) the name and address of the transporter if the commission order requires the transporter to be designated;

(3) the quantity and classification of each commodity authorized to be transported;

(4) each location at which delivery is to be made to the transporter; and

(5) other related information as prescribed by commission order.

(c) Each tender must:

(1) bear a date and serial number;

(2) state the expiration date of the tender; and

(3) be executed by an agent authorized by the commission to deny, approve, or register tenders.

(d) An agent may not approve or register a tender for the transportation of unlawful oil or an unlawful petroleum product.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.013. ACTION ON TENDER APPLICATION. (a) If an agent of the commission rejects an application for a tender, the agent shall return a copy of the application to the applicant with the reasons for the rejection indicated on the copy.

(b) A person whose tender application is not acted on before the 21st day after the date on which the application is filed is entitled to judicial review in the manner provided by Section 115.014 for the appeal of a rejection of a tender application.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.014. JUDICIAL REVIEW. (a) A person whose tender application is rejected may appeal that action by filing a petition against the commission in a district court of Travis County for review of the agent's decision.

(b) The clerk of the court shall issue to the commission a notice setting forth briefly the cause of action stated in the petition. The court may not enter an order on the petition until the court conducts a hearing. The court must conduct the hearing not later than the fifth day after the date of issuance of the notice.

(c) The court may sustain, modify, or overrule the agent's decision and may issue a restraining order or injunction as warranted by the facts.

(d) A person dissatisfied with the decision of the district

court may appeal to the court of appeals.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.015. TRANSFER UNDER TENDER. (a) A person who obtains a tender may not transport or deliver, or cause or permit to be transported or delivered, any more or any different commodity than that authorized by the tender.

(b) A connecting carrier or consignee who receives oil or a petroleum product from another transporter by pipeline, railway, boat, or barge under authority of shipping papers executed by the initial transporter that bear the date and serial number of a tender issued to that initial transporter is considered to receive the oil or petroleum product by authority of that tender if the commission order provides that a connecting carrier or consignee may rely on the shipping papers.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.016. ISSUANCE OF MANIFEST. (a) A person who obtains a tender required under this subchapter shall sign and issue a manifest to the operator of each motor vehicle used to transport the oil or petroleum product that is covered by the tender.

(b) The person shall issue a separate manifest for each load carried by the motor vehicle.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.017. FORM OF MANIFEST. (a) The commission by order may prescribe the form of a manifest.

(b) A manifest must:

(1) bear a certificate signed by the shipper that states the amount of oil or petroleum products to be transported and specifies each petroleum product to be transported; and

(2) include, if required by commission order:

(A) the date and serial number of the tender that authorizes the transportation or a seal, number, or other evidence of the tender, if a tender is required;

(B) the amount and classification of each petroleum product to be transported;

(C) the name and address of the transporter, the name and address of the shipper, and the name and address of the consignee, if known;

(D) the name and address of the operator of the motor vehicle;

(E) the license plate number of the motor vehicle;

(F) the date, time, and place at which the motor vehicle was loaded and the destination, if known, of the load; and

(G) other related information as required by commission order.

(c) If the form of the manifest is not prescribed by commission order, each shipper required to issue a manifest to a transporter shall use a form of manifest that is:

(1) commonly used in commercial transactions; or

(2) required by another state agency to accompany the movement of gasoline.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.018. TRANSFER UNDER MANIFEST; RESTRICTIONS. (a) A person authorized to transport oil or a petroleum product on a manifest issued by a shipper may not receive:

(1) a commodity for transportation that is different from the commodity described in the manifest; or

(2) oil or a petroleum product in an amount exceeding the amount authorized by the manifest.

(b) A person authorized to transport oil or a petroleum product by a shipper-issued manifest that bears on its face the date and serial number of the tender may rely on the manifest delivered to that person and each consignee or person to whom the transporter delivers oil or a petroleum product covered by that manifest may rely on the manifest as authority to receive the commodity delivered if the manifest:

(1) appears to be valid on its face;

(2) is signed by the shipper; and

(3) bears the certificate of the shipper that the transportation of the oil or petroleum product is authorized by the tender.

(c) If the commission by order prohibits the transportation of oil or a petroleum product by motor vehicle without a manifest that shows the date and serial number of a tender authorizing the

transportation, a person may not ship or transport or cause to be shipped or transported by motor vehicle oil or a petroleum product unless the person furnishes the manifest to the operator of the motor vehicle. The person transporting the oil or petroleum product shall maintain the manifest in the vehicle at all times during the shipment. If the person to whom the tender is issued is the operator of the motor vehicle and the tender identifies the motor vehicle by license number and covers one load, the person may carry the tender in the vehicle in lieu of a manifest.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.019. RECEIPT REQUIRED. A person who transports oil or a petroleum product by motor vehicle under conditions that require a tender or manifest shall obtain a receipt from each person to whom any part of the oil or petroleum product is delivered. The receipt must be on the reverse side of the tender or manifest and must indicate:

(1) the number of gallons of oil or of each petroleum product delivered;

(2) the date of delivery; and

(3) the signature and address of the purchaser or consignee of the oil or petroleum product.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.020. RECORDS; INSPECTION. (a) A person who transports by motor vehicle and delivers oil or a petroleum product shall keep in this state for two years each tender or manifest issued to the person, together with the receipts and endorsements on the tender or manifest.

(b) A tender or manifest is at all times subject to inspection by the commission or an agent or inspector of the commission.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

SUBCHAPTER C. FORFEITURE OF UNLAWFUL OIL OR PETROLEUM PRODUCT

Sec. 115.031. FORFEITURE AUTHORIZED. Unlawful oil and unlawful petroleum products, regardless of the date of production or manufacture, are declared to be a nuisance and shall be forfeited to this state as provided by this subchapter.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.032. REPORT TO ATTORNEY GENERAL. On the discovery of unlawful oil or an unlawful petroleum product, a member of the commission, an agent or employee of the commission, or a peace officer shall immediately file with the attorney general a report that describes the unlawful oil or unlawful petroleum product. The report must state the ownership, party in possession, amount, location, and classification of the oil or petroleum product.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.033. ACTION IN REM. (a) If the attorney general is advised of the presence of unlawful oil or an unlawful petroleum product, the attorney general shall bring an action in rem in the name of the state in Travis County or in the county in which the oil or petroleum product is located against the unlawful oil or petroleum product and against each person who owns, claims, or is in possession of the oil or petroleum product.

(b) If it appears to the court from an examination of the petition or after hearing evidence on the petition at a preliminary hearing that the unlawful oil or petroleum product mentioned in the petition is in danger of being removed, wasted, lost, or destroyed, the court shall:

(1) issue restraining orders or injunctive relief, either mandatory or prohibitive;

(2) appoint a receiver to take charge of the oil or petroleum product; or

(3) direct the sheriff of the county in which the unlawful oil or petroleum product is located to seize and impound the oil or petroleum product pending further orders of the court.

(c) A party to the action may demand a trial by jury on any issue of fact raised by the pleadings, and the case shall proceed to trial in the manner provided for other civil cases.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.034. FORFEITURE SALE. (a) If, on the trial of the action, the oil or petroleum product in controversy is found to be unlawful, the court shall render judgment forfeiting the oil or petroleum product to this state. The court shall issue an order of sale directing the sheriff or a constable of the county in which the oil or petroleum product is located to seize and sell the oil or petroleum product in the same manner as personal property is sold

under execution. The court may order the oil or petroleum product sold in whole or in part.

(b) The sale shall be conducted at the courthouse door of the county in which the oil or petroleum product is located.

(c) The court shall apply the money realized from the sale first to the payment of the costs of the action and expenses incident to the sale of the oil or petroleum product. The court may then use not more than one-half of the money to compensate a person for expenses incurred in storing the unlawful oil or petroleum product. Any balance remaining shall be remitted to the comptroller.

(d) The officers of the court shall receive the same fees provided by law for other civil actions. The sheriff who executes the sale shall issue a bill of sale or certificate to the purchaser of the oil or petroleum product, and the commission, on presentation of that certificate of clearance, shall issue a tender, if a tender is required, permitting the purchaser of the oil or petroleum product to move the oil or petroleum product into commerce.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

SUBCHAPTER D. ENFORCEMENT AND PENALTIES

Sec. 115.041. ENFORCEMENT; ARRESTS. (a) To enforce this chapter, an agent of the commission or a peace officer of this state who has probable cause and reasonable grounds to believe that a motor vehicle is transporting unlawful oil or an unlawful petroleum product may stop the vehicle to take samples of the cargo and to inspect the shipping papers.

(b) If, on examination of the motor vehicle, the agent or officer finds that the vehicle is transporting unlawful oil or an unlawful petroleum product or is transporting oil or a petroleum product without a required tender, the agent or officer, with or without a warrant, shall arrest the operator of the vehicle and file a complaint against the operator under this chapter.

(c) In a criminal action under this chapter, the agent or officer is not entitled to a fee for executing a warrant of arrest or capias or for making an arrest with or without a warrant.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.042. PUBLICATION OF COMMISSION ORDER PRIOR TO ENFORCEMENT. A criminal action may not be maintained against a person involving the violation of a rule or order that the commission adopts, modifies, or amends until the commission publishes a complete copy of the rule or order.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.043. CERTIFICATE AS EVIDENCE. (a) A certificate that sets forth the terms of a commission order and states that the order has been adopted and published and was in effect on a specified date or during a specified period is prima facie evidence of those facts if the certificate is:

(1) made under the seal of the commission; and

(2) executed by a member or the secretary of the commission.

(b) The certificate is admissible in evidence in any civil or criminal action that involves the order without further proof of the adoption, publication, or contents of the order.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.044. SERVICE OF PROCESS. (a) In an action or proceeding that involves the enforcement of this chapter or a commission order, a Texas Ranger or agent of the commission may serve any judicial process, warrant, subpoena, or writ as directed by the court issuing the process and shall serve the process in the same manner as a peace officer.

(b) The ranger or agent may serve the process, warrant, or subpoena anywhere in this state although it may be directed to the sheriff or a constable of a particular county.

(c) The ranger or agent shall make the same return as any other officer, sign the return, and add under the name the title "State Ranger" or "Agent, Railroad Commission of Texas," as appropriate, which is sufficient to make the writ valid if the writ is otherwise properly prepared.

(d) A Texas Ranger or agent of the commission is not entitled to a fee in addition to that person's regular compensation for a service provided under this section.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.045. PLEADING; PROOF. (a) In a complaint, information, or indictment that alleges a violation of a commission

order, it is unnecessary to set forth fully the terms of the order and sufficient to allege the substance of the order or the pertinent terms of the order that are alleged to have been violated.

(b) In a criminal action filed under this chapter, a certificate executed by a member or the secretary of the commission that shows the amount of allowable oil that may be produced per day or during a stated period from an oil well, proof of production from which is involved in the criminal action, is admissible and is prima facie evidence of the facts stated in the certificate.

(c) This section does not limit the power of the commission to adopt rules or orders under the oil and gas conservation statutes of this state, including this title and Subtitle B, Title 3, Utilities Code.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.046. VENUE. A criminal action maintained under this chapter must be brought in:

(1) the county in which the oil or petroleum product involved in the criminal action is received or delivered; or

(2) any county in or through which that oil or petroleum product is transported.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.

Sec. 115.047. PENALTIES. (a) A person commits an offense if the person is the operator of a motor vehicle that transports oil or a petroleum product and the person:

(1) intentionally fails to stop the vehicle on the command of an agent of the commission or peace officer; or

(2) intentionally fails to permit inspection by the agent or officer of the contents of or the shipping papers accompanying the vehicle.

(b) A person commits an offense if the person:

(1) knowingly violates Section 115.011, 115.015(a), 115.016, 115.018, 115.019, or 115.020;

(2) knowingly ships or transports or causes to be shipped or transported unlawful oil or an unlawful petroleum product by motor vehicle over a public highway in this state;

(3) knowingly ships or transports or causes to be shipped or transported by motor vehicle oil or a petroleum product without the authority of a tender if a tender is required by a commission order; or

(4) if a tender is required by a commission order, knowingly receives from a motor vehicle or knowingly delivers to a motor vehicle oil or a petroleum product that is not covered by a tender authorizing the transportation of the oil or petroleum product.

(c) A person commits an offense if the person:

(1) knowingly ships or transports or causes or permits to be shipped or transported by pipeline, railway, boat, or barge unlawful oil or an unlawful petroleum product;

(2) knowingly receives or delivers for transportation by pipeline, railway, boat, or barge unlawful oil or an unlawful petroleum product;

(3) knowingly ships or transports or causes or permits to be shipped or transported by pipeline, railway, boat, or barge oil or a petroleum product without authority of a tender if a tender is required by a commission order; or

(4) knowingly receives or delivers by pipeline, railway, boat, or barge oil or a petroleum product without authority of a tender if a tender is required by a commission order.

(d) An offense under this section is punishable by a fine of not less than \$50 or more than \$200.

Added by Acts 1997, 75th Leg., ch. 166, Sec. 7, eff. Sept. 1, 1997.